



## Senate

General Assembly

February Session, 2014

**File No. 564**

Senate Bill No. 261

*Senate, April 16, 2014*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING THE INHERITANCE RIGHTS OF A BENEFICIARY OR SURVIVOR WHO IS FOUND NOT GUILTY OF MURDER OR MANSLAUGHTER OF THE DECEASED BY REASON OF MENTAL DISEASE OR DEFECT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-447 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) (1) A person finally adjudged guilty, either as the principal or  
4 accessory, or finally found not guilty by reason of mental disease or  
5 defect pursuant to section 53a-13, of any crime under section 53a-54a,  
6 53a-54b, 53a-54c, 53a-54d, 53a-55, [or] 53a-55a, 53a-56 or 53a-56a, or in  
7 any other jurisdiction, of any crime, the essential elements of which are  
8 substantially similar to such crimes, or a person determined to be  
9 guilty, or determined to be not guilty by reason of mental disease or  
10 defect, under any of said sections pursuant to this subdivision, shall  
11 not inherit or receive any part of the estate of (A) the deceased,  
12 whether under the provisions of any act relating to intestate

13 succession, or as devisee or legatee, or otherwise under the will of the  
14 deceased, or receive any property as beneficiary or survivor of the  
15 deceased, or (B) any other person when such homicide or death  
16 terminated an intermediate estate, or hastened the time of enjoyment.  
17 For the purposes of this subdivision, an interested person may bring  
18 an action in the Superior Court for a determination, by a  
19 preponderance of the evidence, that an heir, devisee, legatee or  
20 beneficiary of the deceased who has predeceased the interested person  
21 would have been adjudged guilty or found not guilty by reason of  
22 mental disease or defect, either as the principal or accessory, under  
23 section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, [or] 53a-55a, 53a-56  
24 or 53a-56a, had the heir, devisee, legatee or beneficiary survived.

25 (2) With respect to inheritance under the will of the deceased, or  
26 rights to property as heir, devisee, legatee or beneficiary of the  
27 deceased, the person whose participation in the estate of another or  
28 whose right to property as such heir, devisee, legatee or beneficiary is  
29 so prevented under the provisions of this section shall be considered to  
30 have predeceased the person killed.

31 (3) With respect to property owned in joint tenancy with rights of  
32 survivorship with the deceased, such final adjudication as guilty or  
33 finding of not guilty by reason of mental disease or defect shall be a  
34 severance of the joint tenancy [,] and shall convert the joint tenancy  
35 into a tenancy in common as to the deceased and the person so  
36 adjudged [and the deceased] or found, but not as to any remaining  
37 joint tenant or tenants. [, such severance being] Such severance shall be  
38 effective as of the time such adjudication [of guilty] or finding becomes  
39 final. When such jointly owned property is real property, a certified  
40 copy of the final adjudication as guilty or finding of not guilty by  
41 reason of mental disease or defect shall be recorded by the fiduciary of  
42 the deceased's estate, or may be recorded by any other interested party  
43 in the land records of the town where such real property is situated.

44 (b) In all other cases where a defendant has been convicted of killing  
45 another person, or has been found not guilty of killing another person

46 by reason of mental disease or defect, the right of such defendant to  
47 inherit or take any part of the estate of the person killed or to inherit or  
48 take any estate as to which such homicide terminated an intermediate  
49 estate, or hastened the time of enjoyment, or to take any property as  
50 beneficiary or survivor of the deceased shall be determined by the  
51 common law, including equity.

52 (c) (1) A named beneficiary of a life insurance policy or annuity who  
53 intentionally causes the death of the person upon whose life the policy  
54 is issued or the annuitant, is not entitled to any benefit under the  
55 policy or annuity, and the policy or annuity becomes payable as  
56 though such beneficiary had predeceased the [decedent] deceased.

57 (2) (A) A conviction or a finding of not guilty by reason of mental  
58 disease or defect under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-  
59 55, [or] 53a-55a, 53a-56 or 53a-56a, or a determination pursuant to  
60 subparagraph (B) of this subdivision that a named beneficiary would  
61 have been found guilty under any of said sections had the named  
62 beneficiary survived, or would have been found not guilty under any  
63 of said sections by reason of mental disease or defect had the named  
64 beneficiary survived, shall be conclusive for the purposes of this  
65 subsection.

66 (B) For the purposes of this subsection, an interested person may  
67 bring an action in the Superior Court for a determination, by a  
68 preponderance of the evidence, that a named beneficiary who has  
69 predeceased the interested person would have been found guilty  
70 under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, [or] 53a-55a,  
71 53a-56 or 53a-56a, or would have been found not guilty under any of  
72 said sections by reason of mental disease or defect, had the named  
73 beneficiary survived.

74 (C) In the absence of such a conviction, finding or determination,  
75 the Superior Court may determine by the common law, including  
76 equity, whether the named beneficiary is entitled to any benefit under  
77 the policy or annuity.

78 (D) In any proceeding brought under this subsection, the burden of  
79 proof shall be [upon] on the person challenging the eligibility of the  
80 named beneficiary for benefits under a life insurance policy or annuity.

81 (3) Any insurance company [making] that makes payment  
82 according to the terms of its policy or annuity is not liable for any  
83 additional payment by reason of this section unless [it] the insurance  
84 company has received at its home office or principal address written  
85 notice of a claim under this section prior to such payment.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2014	45a-447
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**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes changes to inheritance rights and does not result in a fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****SB 261*****AN ACT CONCERNING THE INHERITANCE RIGHTS OF A BENEFICIARY OR SURVIVOR WHO IS FOUND NOT GUILTY OF MURDER OR MANSLAUGHTER OF THE DECEASED BY REASON OF MENTAL DISEASE OR DEFECT.*****SUMMARY:**

Existing law prohibits defendants found guilty of certain serious crimes from inheriting from, or receiving part of, the victim's estate or receiving life insurance or annuity benefits from the victim. This bill extends the prohibition to defendants found not guilty by reason of mental disease or defect. It also adds two crimes to those covered by the prohibition: 2<sup>nd</sup> degree manslaughter and 2<sup>nd</sup> degree manslaughter with a firearm (see BACKGROUND).

Under existing law, the covered crimes are murder, murder with special circumstances, felony murder, arson murder, and 1<sup>st</sup> degree manslaughter with or without a firearm.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2014

**PROHIBITION ON RECOVERING FROM VICTIM**

As under existing law for those found guilty, the bill's prohibition also applies to defendants:

1. found not guilty by reason of mental disease or defect, in another jurisdiction, of a crime with substantially similar elements to those listed or
2. whom a court determines would have been found not guilty by reason of mental disease or defect had they survived criminal

prosecution.

### ***Life Insurance or Annuities***

The law's prohibition on recovering from a life insurance policy or annuity applies to someone who intentionally caused the death of the person who is the subject of the policy or annuity. People convicted of the listed crimes are conclusively included within this prohibition.

The bill also conclusively includes within this prohibition people found not guilty by reason of mental disease or defect for these crimes. (In some cases, it may not be clear how a person found not guilty by reason of mental disease or defect can be said to have intended to cause someone's death.)

## **BACKGROUND**

### ***Second-Degree Manslaughter***

By law, a person commits 2<sup>nd</sup> degree manslaughter when he or she (1) recklessly causes someone else's death or (2) intentionally causes or aids someone to commit suicide, other than by force, duress, or deception (CGS § 53a-56).

### ***Second-Degree Manslaughter with a Firearm***

By law, a person commits 2<sup>nd</sup> degree manslaughter with a firearm when he or she (1) commits 2<sup>nd</sup> degree manslaughter and (2) in the commission of the offense uses, is armed with and threatens to use, or displays or represents by words or conduct that he or she possesses a firearm (CGS § 53a-56a).

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea    40    Nay    0    (04/02/2014)